

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6860

Petitions of Vermont Electric Power Company, Inc.)
(VELCO) and Green Mountain Power Corporation)
(GMP) for a certificate of public good, pursuant to 30)
V.S.A. Section 248, authorizing VELCO to construct)
the so-called Northwest Vermont Reliability Project,)
said project to include: (1) upgrades at 12 existing)
VELCO and GMP substations located in Charlotte,)
Essex, Hartford, New Haven, North Ferrisburgh,)
Poultney, Shelburne, South Burlington, Vergennes,)
West Rutland, Williamstown, and Williston,)
Vermont; (2) the construction of a new 345 kV)
transmission line from West Rutland to New Haven;)
(3) the reconstruction of a portion of a 34.5 kV and 46)
kV transmission line from New Haven to South)
Burlington; and (4) the reconductoring of a 115 kV)
transmission line from Williamstown to Barre,)
Vermont –)

Order entered: 1/3/2006

ORDER RE APPROVAL OF 345 kV TRANSMISSION LINE

On January 28, 2005, the Vermont Public Service Board ("Board") issued an Order approving the Northwest Reliability Project proposed by Vermont Electric Power Company, Inc. ("VELCO") and Green Mountain Power Corporation ("GMP"). A condition of the January 28 Order stated:

Petitioners shall file, for the Board's approval, final construction plans for the 345 kV line, 115 kV line, and the substation upgrades, concurrent with plans for aesthetic and environmental mitigation, as required by the post-certification process described in the Order. Petitioners may commence construction only after receiving approval for such plans, and receipt of all necessary permits.

In today's Order, the Board approves the final construction plans for the 345 kV line. Therefore, as the January 28 Order provides, VELCO may commence construction of the 345 kV

line if it has received all necessary permits, and subject to the additional conditions set forth herein.

Aesthetic Mitigation

On July 29, 2005, VELCO filed a "345 kV Line Plan & Profile with Clearing Plan" and an "Aesthetic Mitigation Landscape Plan" with the Board. Several parties filed comments on the July 29 plans. In response to these comments, VELCO provided a second version of its "Aesthetic Mitigation Landscape Plans" on November 3, 2005. On November 23, 2005, VELCO filed a letter with the Board that included minor changes to the location and height of several transmission structures. VELCO's revision resolved all concerns that parties had presented, other than issues regarding aesthetic impact.

On December 5, 2005, Board staff held a status conference at the Middlebury Town Offices to discuss the status of the Aesthetic Mitigation Plans. The parties agreed that resolution had been reached on all aesthetic mitigation plans except the plan for Route 7/West Salisbury Road (labeled L5.1) and Halpin Road (labeled L6.6). In the West Salisbury Road area, the mitigation plans call for planting screening trees along the edge of Route 7 and West Salisbury Road. At the time of the status conference, the landowner had not given VELCO permission to install the proposed aesthetic mitigation. VELCO is continuing communication with the landowner, and Addison County Regional Planning Commission ("ACRPC") and the Vermont Department of Public Service ("Department") have agreed to discuss the issue with the landowner. At Halpin Road, the remaining unresolved issue is the placement of plantings to screen an angle structure from a residence. VELCO is continuing to work with the landowner and is exploring options for moving the angle structure.

VELCO and the Department request that the Board approve the plans, despite the uncertainty surrounding these two areas. The Department emphasizes that the aesthetic mitigation for only a small portion of the total 345 kV line has not been resolved. VELCO and the Department contend that, in order to complete the NRP in a timely manner, construction must proceed as soon as possible. In addition, the Department states that the Board should retain

authority to review the completed project, including completion of all required aesthetic mitigation, and determine at that time whether additional aesthetic mitigation is required.

The Town of Middlebury ("Middlebury") and ACRPC contend that the Board should not approve the plans until such time that VELCO can verify that the appropriate aesthetic mitigation can be installed. They argue that the mitigation is required by the January 28 Order and therefore construction should not be allowed to proceed until the Board and parties are certain that the aesthetic impacts of the project can be properly mitigated. Additionally, ACRPC contends that VELCO should be required to demonstrate that it has offered to buy the property along Route 7 necessary to install the plantings for this area. Finally, Middlebury expresses concern that the terms of VELCO's easement might not allow VELCO to install plantings in the right-of-way without landowner permission.

We commend the parties for working diligently to achieve agreement on the majority of the design plans for the 345 kV line. In light of the fact that there is agreement on the aesthetic mitigation for the large majority of the 345 kV line, we approve the design plans for the 345 kV line and authorize VELCO to begin construction on the 345 kV line. We hereby retain authority to review the project as completed, including completion of all proposed aesthetic mitigation measures, and to require such additional aesthetic mitigation as we determine at that time, to be necessary.¹ However, VELCO must continue to work with affected landowners to implement the aesthetic mitigation contained in the aesthetic mitigation plans. VELCO must file quarterly reports, beginning March 31, 2006, on the status of negotiations with these landowners. We do not need to resolve, at this time, the issues raised by ACRPC and Middlebury regarding the necessity of purchasing property or VELCO's ability to install plantings in the right-of-way; we are approving VELCO's proposed mitigation measures, and it is therefore incumbent upon VELCO to take all necessary steps to implement those measures or to return to this Board for approval of a modified mitigation plan.

1. We do not accept Middlebury and ACRPC's contention that it is inappropriate to approve the plans until there is complete certainty that all appropriate aesthetic mitigation will be implemented. An inability to reach agreement with a landowner on aesthetic mitigation measures should not necessarily be allowed to delay construction of a project that is needed to ensure reliability. Board precedent allows construction to proceed in circumstances such as these, with the Board retaining authority to review the adequacy of aesthetic mitigation post-construction. *See, e.g.,* Docket 6839.

Electric and Magnetic Fields ("EMF")

The January 28 Order required VELCO, "as part of the post-certification proceedings, to identify areas of relatively high EMF levels expected at nearby residences and propose measures that might mitigate EMF exposure at these locations." On July 29, 2005, VELCO filed a letter with the Board that included the following statement:

Regarding EMF monitoring, VELCO and the DPS have concluded that it is not necessary to modify the design of the 345 kV line to mitigate EMF levels. The electric and magnetic fields will be well within established standards at the ROW edge as described in both the NRP testimony and in the CPG discussion. Per the Board Order, VELCO will continue to monitor the body of scientific knowledge of EMF health effects and report to the Board on an annual basis for the next five years.

Notwithstanding the contentions of VELCO and the Department, the Board continues to have some concern with the EMF levels along the 345 kV line. Consequently, we will require VELCO to install a device to measure EMF levels at the edge of the right-of-way adjacent to the Salisbury Elementary School. We are requiring this to ensure that actual EMF levels are within the parameters of predicted EMF levels. The choice of placement of the monitoring device next to the Salisbury Elementary School is in recognition that, if EMF does pose a health risk, the most sensitive population is children. VELCO shall file a proposed EMF monitoring plan for this location, for approval by the Board, six months from the date of this Order.

Environmental Mitigation

On August 12, 2005, VELCO filed with the Board a letter addressing (1) mitigation of any adverse impacts resulting from construction of the project on the Indiana bat, and (2) a plan for clearing the right-of-way within Rare and Irreplaceable Natural Areas along the 345 kV line, with a mitigation strategy for the impact on such areas due to construction of the project. The filing represents that the Vermont Agency of Natural Resources ("ANR") has found the proposed mitigation to be acceptable. On October 7, 2005, VELCO filed a Rare, Threatened, and Endangered Species Protection Plan for clearing associated with the 345 kV right-of-way, that VELCO represents has been approved by ANR. On September 2, 2005, VELCO filed a letter from the Agency of Agriculture, Food & Markets ("AAFM") stating that the construction of the

345 kV line would not have a significant impact on agricultural soils.² On September 7, 2005, ANR filed a letter with the Board stating that it had reached an agreement regarding suitable mitigation for the loss of deeryards and wetlands. On December 14, 2005, VELCO filed a Construction General Permit, which included approval from ANR of VELCO's Erosion Prevention and Sediment Control Plan. On December 23, 2005, VELCO filed an Army Corps of Engineers permit.

Conclusion

The "Aesthetic Mitigation Landscape Plans" filed with the Board on November 3, 2005, and the "345 kV Line Plan & Profile with Clearing Plan" filed with the Board on July 29, 2005, are approved. This approval also includes the aesthetic mitigation plan for the West Salisbury Road/Route 7 area (labeled L5.1) and VELCO's letter of November 23, 2005, making minor changes to the location and height of several transmission structures. VELCO must make best efforts to obtain landowner permission to implement the plan as shown on L5.1 and must provide a quarterly update with the Board and parties on its efforts.

SO ORDERED.

2. VELCO had proposed to file an Agricultural Soil Impact Mitigation Plan with the AAFM. However, the AAFM's determination that there was not a significant impact to agricultural soils obviated the need to produce such a plan.

Dated at Montpelier, Vermont, this 3rd day of January, 2006.

_____)	
)	PUBLIC SERVICE
)	
s/David C. Coen)	BOARD
)	
)	OF VERMONT
s/John D. Burke)	

OFFICE OF THE CLERK

FILED: January 3, 2006

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.